

Local Law No. - 2020

This local law shall be known as the "2020 Revision of the Mechanical Rock Removal" Law.

BE IT ENACTED by the Town Board of the Town of Mamaroneck

Section 1 – Purpose:

The Town Board continues to monitor the impact of pulverizing and removing rock by mechanical means upon the health, safety and welfare of the Town's residents with a goal of balancing people's right to develop their properties with a neighborhood's right to tranquility, to the extent possible. Among the concerns that have arisen are the need to mitigate the spread of dust and other particulates during both the drilling and pulverizing of rock and its removal from the site, the need to limit mechanical rock removal on smaller lots and the need to decrease the number of hours per day when such activities may take place. This revision in the law furthers the goal.

Section 2 – Amendment of a current section of the Mamaroneck Code:

Section 106-58.1 of the Code of the Town of Mamaroneck hereby is repealed and the following substituted in its place:

§106-58.1 Duration and hours for pulverizing and removing rock.

As used in this section, the following terms shall have the meanings indicated:

A. MECHANICAL MEANS

The use of any tools that are not operated solely by human muscular power. Explosives and the tools used in connection with blasting shall not be considered mechanical means.

MONITOR

A person, unaffiliated with either the owner of the subject property or the person pulverizing rock and/or removing it from the subject property with experience in residential construction, especially the pulverizing and removal of rock and acceptable to the Building Inspector or the Director of Building Code Enforcement and Land Use Administration, who will be present at a subject property whenever rock is pulverized or removed therefrom. The monitor's responsibility is to assure

compliance with the P&R Permit and section 106-58.1 of the Code. The person to whom the P&R Permit is issued shall be responsible for paying the monitor's fee.

ORIGINAL INFRASTRUCTURE

Streets and curbs, and the lines, pipes, culverts and conduits used for transporting potable water, storm water, sewage and utilities, such as gas, telephone, electricity, cable television and Internet service, that are built on land subdivided after February 1, 2004, if the subdivision plat creating the lots in that subdivision also created one or more new private or public streets or created extensions to any existing private or public street.

PERMITTED HOURS AND DAYS FOR PULVERIZING ROCK ON A SUBJECT PROPERTY

The seven hours between 9:00 a.m. (prevailing time) and 4:00 p.m. (prevailing time) on days other than Saturdays, Sundays and the public holidays listed in § 24 of the New York General Construction Law.

PERMITTED HOURS AND DAYS FOR REMOVING ROCK FROM A SUBJECT PROPERTY

The eight hours between 9:00 a.m. (prevailing time) and 5:00 p.m. (prevailing time), on days other than Saturdays, Sundays and the public holidays listed in § 24 of the New York General Construction Law.

PERMITTED NUMBER OF DAYS

For creating trenches for utility lines on a subject property having an area less than six thousand (6,000) square feet, ten (10) days.

For a subject property having an area greater than six thousand (6,000) square feet but less than seven thousand five hundred (7,500) square feet, ten (10) days.

For a subject property having an area greater than seven thousand five hundred (7,500) square feet, fifteen (15) days.

P&R PERMIT

A permit issued for pulverizing rock on, and/or removing pulverized rock from, a subject property.

PULVERIZING ROCK

The drilling and/or the reduction in size of rock by mechanical means in any residence district or in the Recreation District of the Town.

REMOVAL

The carting away of rock that has been pulverized from a subject property.

RESTRICTED AREA

The area encompassed by the six hundred (600) linear feet from each of the lot lines and corners of a property for which a P&R Permit is issued.

RESTRICTED PERIOD

The sixty (60) calendar days from the last day on which pulverizing rock was permitted on a property lying within the restricted area.

ROCK

Naturally occurring stone. "Rock" does not include impervious concretions created by humans such as macadam, concrete and bricks, or stone installed by humans, such as slate used to create a walkway.

SUBJECT PROPERTY

A lot for which a P&R Permit is required, or land where the construction of original infrastructure is to occur if such land lies outside a lot.

- B. A P&R Permit is required for pulverizing and/or removing any quantity of rock from a subject property.
- C. Except for pulverizing and/or removing rock for the purpose of creating trenches for utility lines, no P&R Permit shall be issued with respect to a subject property having an area less than six thousand (6,000) square feet.

- D. No P&R Permit shall be issued until the Building Inspector or the Director of Building Code Enforcement and Land Use Administration approves the dust mitigation plan submitted by the applicant. Such plan must incorporate the best dust control practices, including but not limited to, a water spray system (air suppression or surface wetting) or other practices that are considered best dust practices at the time the application for a P&R Permit is made. The dust mitigation plan also must present the measures the applicant intends to use to control water runoff as a result of water spraying. In the sole discretion of the Building Inspector or the Director of Building Code Enforcement and Land Use Administration, air quality sampling may be required during the course of rock removal.
- E. Rock crushing on the subject property is not permitted at any time.
- F. There shall be no more than two machines on the subject property having drills or hammers operating at the same time.
- G. No more than one P&R Permit shall be issued for a subject property within any twelve-month period.
- H. During the restricted period, no P&R Permit shall be issued for a property that lies within the restricted area.
- I. Before work pursuant to a P&R Permit can begin, the applicant shall have a survey done of the condition of all improvements existing on each lot (including lots lying outside the unincorporated area of the Town of Mamaroneck) that either shares all or a section of a lot line with the subject property or touches the subject property at a corner. Such survey must be done by an entity regularly engaged in conducting tests or furnishing inspection services that is approved by the Building Inspector or the Director of Building Code Enforcement and Land Use Administration. If the occupant of a lot to be surveyed refuses to allow a survey to be done, the applicant shall submit an affidavit stating that he/she had attempted to gain access but was denied. Submission of such an affidavit will obviate the requirement for a survey of that lot. Notwithstanding the foregoing, a survey shall not be required if all of the rock removal will be done using mechanical means that are designed to be handheld while operating.
- J. Notice to neighbors; affidavit of mailing.

(1) No later than 10 days before work pursuant to a P&R Permit commences, the following notice shall be mailed to the owners of each lot that has a lot line lying within 150 feet of any lot line of the subject property:

(a) For work that is not the construction of original infrastructure:

"Dear Neighbor,

Rock from the property known as [INSERT THE STREET ADDRESS OR THE LOCATION OF THE SUBJECT PROPERTY IF IT HAS NO STREET ADDRESS] will be pulverized by mechanical means, such as drills, jackhammers and other types of gas, diesel or electric powered equipment and removed from this property by dump trucks or similar vehicles. Work is scheduled to begin on [INSERT THE STARTING DATE FOR WORK TO BE DONE PURSUANT TO A P&R PERMIT]. The last day on which rock can be pulverized by mechanical means or removed from this site is [INSERT THE LAST DATE ON WHICH WORK DONE PURSUANT TO THE P&R PERMIT CAN OCCUR]. Upon a showing of undue hardship by the permit holder, rock may be pulverized or removed from the site, or both, for up to five (5) additional days. The person performing the work is responsible for having an independent monitor on site to assure compliance with the law.

If your property abuts the subject property, you should have been contacted by now about having a survey done of the physical condition of the structures on your property. The purpose of the survey is to establish the physical condition of the structures on your property before work begins so that you may be able to determine whether and to what extent, the work may damage your property. If you were not contacted about having a survey done, please contact the Town Building Department at 914-381-7830 immediately.

The law does not allow rock to be drilled or pulverized by mechanical means on Saturdays, Sundays or public holidays, or before 9:00 a.m. (prevailing time) and after 4:00 p.m. (prevailing time) on those days when such work is permitted.

The law also does not allow the rock that has been pulverized to be removed from the site on Saturdays, Sundays or public holidays or before 9:00 a.m. (prevailing time) and after 5:00 p.m. (prevailing time) on those days when removal of pulverized rock is permitted.

For further information, please contact [INSERT THE NAME OF THE OWNER OR THE PERSON IN CHARGE OF THE PROJECT] at the following telephone number: [INSERT CURRENT TELEPHONE NUMBER OF THE PERSON WHOSE NAME APPEARS ABOVE].

Very truly yours,

[SIGNATURE OF THE OWNER OF THE SUBJECT PROPERTY]

[PRINT OR TYPE THE NAME OF THE OWNER OF THE SUBJECT PROPERTY]"

(b) For the construction of original infrastructure:

"Dear Neighbor,

Rock from the property known as [INSERT THE STREET ADDRESS OR THE LOCATION OF

THE SUBJECT PROPERTY IF IT HAS NO STREET ADDRESS] will be pulverized by mechanical means, such as drills, jackhammers and other types of gas, diesel or electric powered equipment and removed from this property by dump trucks or similar vehicles. Work is scheduled to begin on [INSERT THE STARTING DATE FOR WORK TO BE DONE PURSUANT TO THE P&R PERMIT]. The last day on which rock can be pulverized by mechanical means or removed from this site is [INSERT THE LAST DATE ON WHICH WORK DONE PURSUANT TO THE P&R PERMIT CAN OCCUR]. The person performing the work is responsible for having an independent monitor on site to assure compliance with the law.

If your property abuts the subject property, you should have been contacted by now about having a survey done of the physical condition of the structures on your property. The purpose of the survey is to establish the physical condition of the structures on your property before rock removal begins so that you may be able to determine whether and to what extent, the work may damage your property. If you were not contacted about having a survey done, please contact the Town Building Department at 914-381-7830 immediately.

The law does not allow rock to be drilled or pulverized by mechanical means on Saturdays, Sundays or public holidays, or before 9:00 a.m. (prevailing time) and after 4:00 p.m. (prevailing time) on those days when such work is permitted.

The law also does not allow the rock that has been pulverized to be removed from the site on Saturdays, Sundays or public holidays, or before 9:00 a.m. (prevailing time) and after 5:00 p.m. (prevailing time) on those days when removal of pulverized rock is permitted.

For further information, please contact [INSERT THE NAME OF THE OWNER OR THE PERSON IN CHARGE OF THE PROJECT] at the following telephone number: [INSERT CURRENT TELEPHONE NUMBER OF THE PERSON WHOSE NAME APPEARS ABOVE].

Very truly yours,

[SIGNATURE OF THE OWNER OF THE SUBJECT PROPERTY]

[PRINT OR TYPE THE NAME OF THE OWNER OF THE SUBJECT PROPERTY]"

- (2) A certificate of mailing issued by the United States Postal Service showing that the mailing was done in time to comply with this section must be filed with the Building Department before a P&R Permit can be issued for the subject property.
- K. While on the subject property, particulate matter must be sufficiently soaked or stored to prevent the particulate matter from becoming airborne. The Building Inspector or the Director of Building Code Enforcement and Land Use Administration may require secured tarps or coverings made of plastic or other material to further reduce dust emissions.
- L. Motor vehicles used to transport particulate matter must be covered.

- M. Other than for the construction of original infrastructure, pulverizing and removing rock from a subject property shall be allowed only during permitted hours and only for the permitted number of days, starting on the date specified for the commencement of such work contained in the notice to neighbors described in §106-58.1 J. (1) (a). The P&R Permit shall contain the date after which pulverizing and removing rock no longer will be allowed to be done. Upon a showing of undue hardship, the Building Inspector or the Director of Building Code Enforcement and Land Use Administration may allow rock to be pulverized and removed from a subject property for up to five additional days. If the number of additional days includes a day or days on which such work is prohibited by this section, the extension period will bypass such days and resume on the first day thereafter when pulverizing and removing rock is permitted by this section.
- N. For the construction of original infrastructure, pulverizing rock and removing it from a subject property shall be allowed only during permitted hours and only for the first 180 days starting on the date specified for the commencement of such work contained in the notice to neighbors described in §106-58.1 J. (1) (b). Rock shall not be pulverized or removed from the subject property unless the monitor is present. The P&R Permit shall contain the date after which pulverizing and removing rock removal no longer will be allowed to be done. Under no circumstances may work pursuant to a P&R Permit in connection with the construction of original infrastructure extend beyond the one hundred-eightieth day (180th) day specified for the commencement of such work in the notice to neighbors described in §106-58.1 J. (1) (b).
- O. Any person who violates this section shall be guilty of a violation which shall be punishable by a fine of not more than \$1,000, and also shall be liable for the civil penalty imposed by § 106-55C of the Code. Each use of mechanical means to pulverize rock or each time rock is removed from a subject property on a day or at an hour when such activity is prohibited by this section shall constitute a separate offense.
- P. If there is a violation of this section by someone other than the owner of the subject property, the owner of the subject property also shall be guilty of a violation which shall be punishable by a fine of not more than \$1,000, and also shall be liable for the civil penalty imposed by § 106-55C of the Code.
- Q. This section shall not apply to public utility companies, the United States of America, the State of New York, the County of Westchester, the Town of Mamaroneck, the Mamaroneck Union Free School District, or the Villages of Larchmont or Mamaroneck or any independent contractors engaged by any of the entities listed in this paragraph.

Section 3 – Severability:

Should any provision of this Local Law be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration of unconstitutionality or invalidity shall not affect any other provisions of this Local Law, which may be implemented without the invalid or unconstitutional provisions.

Section 4 – Effective Date:

This Local Law shall become effective upon the later of January 2, 2021 or its filing with the Secretary of State.

November 23, 2020 for Dec 2 public hearing